

By: Capriglione

H.B. No. 1685

A BILL TO BE ENTITLED

AN ACT

relating to prohibition of abortion; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 10, Penal Code, is amended by adding Chapter 50 to read as follows:

CHAPTER 50. ABORTION

Sec. 50.01. DEFINITIONS. In this chapter:

(1) "Abortion" has the meaning assigned by Section 245.002, Health and Safety Code.

(2) "Fertilization" means the point in time when a male human sperm penetrates the zona pellucida of a female human ovum.

(3) "Pregnant" means the female human reproductive condition of having a living unborn child within the female's body through the entire embryonic and fetal stages of the unborn child's development from fertilization until birth.

(4) "Reasonable medical judgment" means a medical judgment made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities for the medical conditions involved.

(5) "Unborn child" means an individual living member of the homo sapiens species from fertilization until birth, including the entire embryonic and fetal stages of development.

Sec. 50.02. PERFORMANCE OF ABORTION. (a) A person commits

1 an offense under Chapter 19 if an unborn child dies as a result of an
2 abortion performed or attempted by the person.

3 (b) A person commits an offense under Chapter 22 if an
4 unborn child sustains bodily injury as a result of an abortion
5 performed or attempted by the person.

6 (c) It is an exception to the application of this section
7 that:

8 (1) the actor is a licensed physician;

9 (2) in the actor's reasonable medical judgment, the
10 pregnant female on whom the abortion is performed or attempted has a
11 life-threatening physical condition aggravated by, caused by, or
12 arising from a pregnancy that places the female at risk of death or
13 poses a serious risk of substantial impairment of a major bodily
14 function unless the abortion is performed; and

15 (3) the actor performs or attempts to perform the
16 abortion in a manner that, in the actor's reasonable medical
17 judgment, provides the best opportunity for the unborn child to
18 survive unless, in the actor's reasonable medical judgment, that
19 manner would create:

20 (A) a greater risk of the pregnant female's
21 death; or

22 (B) a serious risk of substantial impairment of a
23 major bodily function of the pregnant female.

24 (d) The exception provided by Subsection (c) is not
25 available if, at the time the abortion was performed or attempted,
26 the actor knew the risk of death or a substantial impairment of a
27 major bodily function arose from a claim or diagnosis that the

1 female would engage in conduct that might result in the female's
2 death or in substantial impairment of a major bodily function.

3 (e) It is an exception to the application of this section
4 that the conduct subject to the offense is medical treatment
5 provided to a pregnant female by a physician and that medical
6 treatment results in the accidental death of or unintentional
7 bodily injury to an unborn child.

8 (f) This section may not be construed to authorize the
9 prosecution of a pregnant female on whom an abortion is performed or
10 attempted.

11 SECTION 2. Chapter 6-1/2, Title 71, Revised Statutes, is
12 repealed.

13 SECTION 3. (a) Sections 1 and 2 of this Act take effect, to
14 the extent permitted, on the 30th day after:

15 (1) the issuance of a United States Supreme Court
16 judgment overruling, wholly or partly, *Roe v. Wade*, 410 U.S. 113
17 (1973), as modified by *Planned Parenthood v. Casey*, 505 U.S. 833
18 (1992), thereby allowing the states to prohibit abortion;

19 (2) the issuance of any other United States Supreme
20 Court decision that recognizes, wholly or partly, the authority of
21 the states to prohibit abortion; or

22 (3) adoption of an amendment to the United States
23 Constitution that, wholly or partly, restores to the states the
24 authority to prohibit abortion.

25 (b) Chapter 50, Penal Code, as added by this Act, applies
26 only to an offense committed on or after the date described by
27 Subsection (a) of this section. An offense committed before the

1 date described by Subsection (a) of this section is governed by the
2 law in effect on the date the offense was committed, and the former
3 law is continued in effect for that purpose. For purposes of this
4 subsection, an offense is committed before the date described by
5 Subsection (a) of this section if any element of the offense occurs
6 before that date.

7 SECTION 4. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2019.